



0000155300

BEFORE THE ARIZONA CORPORATION C

RECEIVED

Arizona Corporation Commission

DOCKETED

AUG 12 2014

DOCKETED BY

2014 AUG 12 P 2:03

AZ CORP COMMISSION
DOCKET CONTROLCOMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

IN THE MATTER OF THE APPLICATION OF
LIBERTY UTILITIES (LITCHFIELD PARK
WATER AND SEWER), CORP. FOR APPROVAL
OF AN EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
WATER UTILITY SERVICE IN MARICOPA
COUNTY, ARIZONA.

DOCKET NO. W-01427A-14-0134

ORIGINAL

IN THE MATTER OF THE APPLICATION OF
LIBERTY UTILITIES (LITCHFIELD PARK
WATER AND SEWER), CORP FOR APPROVAL
OF AN EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
WASTEWATER UTILITY SERVICE IN
MARICOPA COUNTY, ARIZONA.

DOCKET NO. SW-01428A-14-0180

IN THE MATTER OF THE APPLICATION OF
VALLEY UTILITIES WATER COMPANY, INC.
FOR AN EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
WATER UTILITY SERVICE IN MARICOPA
COUNTY, ARIZONA.

DOCKET NO. W-01412A-14-0262

PROCEDURAL ORDER
(Includes Miscellaneous
Filing Dates)

BY THE COMMISSION:

On April 17, 2014, Liberty Utilities (Litchfield Park Water and Sewer), Corp. ("Liberty" or "Company")¹ filed with the Arizona Corporation Commission ("Commission"), in Docket No. W-01427A-14-0134, an application requesting that the Commission approve an extension of its current Certificate of Convenience and Necessity ("CC&N") to provide water utility service to a new area known as Marbella Ranch development in Maricopa County, Arizona ("Water Docket").

On May 2, 2014, Liberty filed, in the Water Docket, a Notice of Filing that included copies of the written notice provided to all municipal managers within five (5) miles of the proposed extension area regarding Liberty's water CC&N extension application on file with the Commission.

¹In 2013, Liberty changed its name from Litchfield Park Service Company dba Liberty Utilities to Liberty Utilities (Litchfield Park Water & Sewer) Corp. See Decision No. 74437 (April 18, 2014).

1 On May 13, 2014, Liberty caused a letter to be docketed, in the Water Docket, stating Liberty
2 agreed with the Commission's Utilities Division ("Staff") to suspend the sufficiency review to allow
3 the Company to file its related application for an extension of its current wastewater CC&N, and
4 indicating that a joint review by Staff of both the water and wastewater applications would be more
5 expeditious.

6 On May 19, 2014, Liberty filed, in the Water Docket, a Notice of Errata correcting errors in
7 its Legal Description and Master Water Report.

8 On June 3, 2014, Liberty filed with the Commission, in Docket No. SW-01428A-14-0180, an
9 application requesting that the Commission approve an extension of its current wastewater CC&N to
10 provide wastewater utility service to the same general area requested in its Water Docket
11 ("Wastewater Docket").

12 On June 4, 2014, Liberty filed, in the Wastewater Docket, an Amended Application For
13 Extension of its wastewater CC&N.

14 On June 5, 2014, Liberty filed, in both the Water and Wastewater Dockets, a motion to
15 consolidate both dockets. Liberty stated that, by consolidating both proceedings, resources would be
16 better utilized as both dockets involve the extension of both the Company's water and wastewater
17 CC&Ns to serve the same area known as Marbella Ranch development.

18 On June 13, 2014, by Procedural Order, the Water and Wastewater Dockets were
19 consolidated ("Consolidated Liberty Docket").

20 On June 18, 2014, Valley Utilities Water Company, Inc. ("Valley") filed an Application for
21 Leave to Intervene and Notice of Intent, stating it intended to file a competing Application for
22 extension of its CC&N to serve the Marbella Ranch development. No objections were filed in
23 opposition to Valley's request for intervention.

24 On June 30, 2014, by Procedural Order, Valley was granted intervention in the Consolidated
25 Liberty Docket.

26 On July 3, 2014, Staff filed a Sufficiency Letter in the Consolidated Liberty Docket, stating
27 that Liberty's applications for extensions of its water and wastewater CC&Ns had met the sufficiency
28 requirements as outlined in the Arizona Administrative Code ("A.A.C").

1 On July 10, 2014, Valley filed its competing application in Docket No. W-01412A-14-0262,
2 requesting an extension of Valley's water CC&N to provide service to the Marbella Ranch
3 development ("Valley Docket").

4 Also on July 10, 2014, a Procedural Order was issued scheduling a hearing on the
5 Consolidated Liberty Docket for September 3, 2014, and setting other procedural deadlines.

6 On July 15, 2014, Valley filed a Request for Procedural Conference to discuss potential
7 scheduling issues given the filing of its competing application.

8 On July 17, 2014, by Procedural Order, a Procedural Conference was scheduled for July 24,
9 2014.

10 On July 18, 2014, Liberty filed a Notice of Filing that included copies of the written notice
11 provided to all municipal managers within five (5) miles of the proposed extension area regarding
12 Liberty's wastewater CC&N extension application on file with the Commission.

13 Also on July 18, 2014, Valley filed a Motion to Appear Telephonically for the July 24, 2014,
14 procedural conference stating that its counsel would be out of the state from July 23-25, 2014. By
15 Procedural Order dated July 21, 2014, the Motion was granted.

16 On July 23, 2014, TRS 8, LLC ("TRS 8"), who is the developer for Marbella Ranch, filed
17 public comment indicating that TRS 8 requests water and sewer services from Liberty and that TRS 8
18 did not request water services from Valley.

19 On July 24, 2014, a Procedural Conference was held as scheduled to address potential
20 scheduling conflicts as a result of Valley's filing its competing application to serve the proposed
21 extension area. At the conference, Staff indicated consolidation of the matters was preferred so as
22 not to strain Staff's finite resources. Valley also sought to have the matters consolidated, but
23 believed it was premature to consolidate the dockets prior to its application being found sufficient.

24 On July 31, 2014, Staff filed a Sufficiency Letter in the Valley Docket, stating Valley's
25 application for an extension of its CC&N to provide water service had met the A.A.C. sufficiency
26 requirements.

27 ...

28 ...

On August 5, 2014, Valley filed, in the Consolidated Liberty Docket and the Valley Docket, a motion to consolidate. Valley stated that the issues raised in each of the dockets are substantially the same and no party would be prejudiced by consolidation.

On August 7, 2014, by Procedural Order, the Consolidated Liberty Docket and the Valley Docket were consolidated ("Consolidated Docket"). The Procedural Order also vacated the procedural schedule set forth in the July 10, 2014 Procedural Order, and reset the procedural schedule on these consolidated matters. As Liberty did not publish notice of the September 3, 2014 hearing date, the public comment hearing scheduled for September 3, 2014 is no longer necessary and is hereby vacated.

The procedural schedule set forth in the August 7, 2014 shall remain intact, with the additions indicated below.

IT IS THEREFORE ORDERED that Valley Utilities Water Company, Inc. shall provide public notice of the hearing in this matter, pursuant to the Procedural Order issued on August 7, 2014.

IT IS FURTHER ORDERED that Liberty Utilities (Litchfield Park Water and Sewer), Corp. shall provide public notice of the hearing in this matter, in the following form and style with the heading in no less than 12-point bold type and the body in no less than 10-point regular type:

PUBLIC NOTICE OF HEARING ON THE APPLICATION OF VALLEY UTILITIES WATER COMPANY, INC. FOR APPROVAL OF AN EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER SERVICE IN MARICOPA COUNTY, ARIZONA.
DOCKET NO. W-01412A-14-0262

On April 17, 2014, Liberty Utilities (Litchfield Park Water and Sewer), Corp. ("Liberty" or "Company") filed with the Arizona Corporation Commission ("Commission"), in Docket No. W-01427A-14-0134, an application requesting Commission approval of an extension of its current Certificate of Convenience and Necessity ("CC&N") to provide water utility service to an area known as Marbella Ranch in Maricopa County, Arizona ("Water Docket"). On June 3, 2014, Liberty filed with the Commission, in Docket No. SW-01428A-14-0180, an application requesting Commission approval of an extension of its current wastewater CC&N to provide wastewater utility service to Marbella Ranch ("Wastewater Docket").

On July 10, 2014, Valley Utilities Water Company, Inc. ("Valley") filed a competing application in Docket No. W-01412A-14-0262, which requests an extension of Valley's water CC&N to provide service to Marbella Ranch ("Valley Docket").

...

1 On August 7, 2014, all three dockets were consolidated for purposes of resolving the
2 matters.

3 The Commission's Utilities Division Staff ("Staff") has not yet made a
4 recommendation regarding the applications, and the Commission is not bound by the
5 proposals made by Liberty, Staff, or any intervenors. The Commission will issue a
6 Decision regarding the applications following consideration of testimony and evidence
7 presented at an evidentiary hearing. A copy of Liberty's application is available at
8 Liberty's offices [insert addresses] and at the Commission's offices at 1200 West
9 Washington Street, Phoenix, Arizona, for public inspection during regular business
10 hours, and on the internet via the Commission website (www.azcc.gov) using the e-
11 docket function.

12 The Commission will hold a hearing on the consolidated matters on **September 24,**
13 **2014, at 10:00 a.m.,** at the Commission's offices, in Hearing Room No. 1, 1200 West
14 Washington Street, Phoenix, Arizona. Public comments will be taken **on the first day**
15 of the hearing. You may also file written comments electronically by going to the
16 Commission's homepage at www.azcc.gov and clicking on the "Submit a Public
17 Comment" button or by mailing a letter referencing Docket Nos. W-01427A-14-0134,
18 et al, to: Arizona Corporation Commission, Consumer Services Section, 1200 West
19 Washington, Phoenix, AZ 85007.

20 The law provides for an open public hearing at which, under appropriate
21 circumstances, interested parties may intervene. Any person or entity entitled by law
22 to intervene and having a direct and substantial interest in the matter will be permitted
23 to intervene. If you wish to intervene, you must file an original and 13 copies of a
24 written motion to intervene with the Commission no later than **September 3, 2014,**
25 and send a copy of the motion to Liberty or their counsel and to all parties of record.
26 Your motion to intervene must contain the following:

- 27 1. The name, address, and telephone number and the name, address,
28 and telephone number of any party upon whom service of
documents is to be made, if not yourself;
2. A short statement of your interest in the proceeding (e.g., a
customer of the Company etc.);
3. A statement certifying that you have mailed a copy of the motion to
intervene to Valley or its counsel and to all parties of record in the
case; and
4. If the proposed intervenor is not represented by an attorney who is
an active member of the Arizona State Bar, and is not an individual
representing himself or herself, information and any appropriate
documentation demonstrating the intervenor's compliance with
Arizona Supreme Court Rules 31, 38, and 42, as applicable.

29 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
30 that all motions to intervene must be filed on or before **September 3, 2014.** For
31 information about requesting intervention, visit the Commission's website at
32 <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The granting of
33 intervention, among other things, entitles a party to present sworn evidence at hearing
34 and to cross-examine other witnesses. However, failure to intervene will not preclude

any interested person or entity from appearing at the hearing and providing public comment on the applications or from filing written comments in the record of the case.

If you have any questions concerning Liberty's application, you may contact Liberty at [insert telephone number]. If you wish to file written comments on the applications or want further information on intervention, you may contact the Consumer Services Section of the Commission at 1200 W. Washington St., Phoenix, AZ 85007, or call 1-800-222-7000.

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting the ADA Coordinator Shaylin Bernal, E-mail Sbernal@azcc.gov, voice phone number 602/542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that Liberty shall **mail** to all property owners in the proposed extension area a copy of the above notice and shall cause the above notice to be published at least once in a newspaper of general circulation in the proposed extension area, with **publication and mailing** to be completed no later than **August 21, 2014**.

IT IS FURTHER ORDERED that Liberty shall **file certification of mailing and publication** as soon as practicable after mailing/publication has been completed, but not later than **September 11, 2014**.

IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing/publication, notwithstanding the failure of an individual property owner to read or receive the notice.

IT IS FURTHER ORDERED that the **Staff Report** and associated exhibits, available at the time the Staff Report is filed, to be presented at hearing shall be reduced to writing and filed on or before **August 29, 2014**.

IT IS FURTHER ORDERED that any **objections** to the Staff Report shall be reduced to writing and filed on or before **September 17, 2014**.

IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-105, except that all motions to intervene must be filed on or before **September 3, 2014**.

IT IS FURTHER ORDERED that any objections to any Motions to Intervene shall be filed on or before **September 17, 2014**.

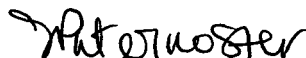
1 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
2 Communications) applies to this proceeding as the matter is now set for public hearing, and shall
3 remain in effect until the Commission's Decision in this matter is final and non-appealable.

4 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
5 of the Arizona Supreme Court and A.R.S. §40-243 with respect to the practice of law and admission
6 *pro hac vice*.

7 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
8 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
9 Supreme Court Rule 42). Representation before the Commission includes the obligation to appear at
10 all hearings, procedural conferences, Open Meetings for which the matter is scheduled for discussion,
11 unless counsel has previously been granted permission to withdraw by the Administrative Law Judge
12 or Commission.

13 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
14 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
15 hearing.

16 DATED this 12th day of August, 2014.

17
18 
19 _____
20 SASHA PATERNOSTER
ADMINISTRATIVE LAW JUDGE

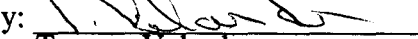
21 Copies of the foregoing mailed/delivered
22 this 12 day of August, 2014 to:

23 Patrick Black
24 FENNEMORE CRAIG, PC
25 2394 E. Camelback Road, Suite 600
26 Phoenix, AZ 85016
27 Attorney for Liberty Utilities

28 Robert J. Metli
MUNGER CHADWICK, P.L.C.
2398 E. Camelback Road, Suite 240
Phoenix, AZ 85016
Attorneys for Intervenor Valley Utilities Water Company

1 Janice Alward, Chief Counsel
2 Legal Division
3 ARIZONA CORPORATION COMMISSION
4 1200 West Washington Street
5 Phoenix, AZ 85007

6
7 Steven M. Olea, Director
8 Utilities Division
9 ARIZONA CORPORATION COMMISSION
10 1200 West Washington Street
11 Phoenix, AZ 85007

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
By: 
Tammy Velarde
Assistant to Sasha Paternoster